



Deliberative democracy: Facilitating environmental protection

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Abstract: The interplay between states and corporations is complex because of the increasingly blurred line between their spheres of influence. It is worth exploring the benefits of deliberative governance as a means of transparency in the decision-making process that fosters public participation and effective environmental protection.

States and corporations are fundamentally different, yet they present important commonalities. They are both subjects of international law, which enables them to bear specific rights and relevant responsibilities. Nevertheless, they are essentially unequal because of their power asymmetries. One of the factors that has shown the power asymmetries between states and corporations, has been globalisation. Without elaborating on the pros and cons of globalisation, we state that it has resulted in an overexpansion of the corporate presence especially because the freedom in the capital movement has enabled the emergence of Transnational Corporations (TNCs). Some TNCs have engaged in a variety of activities and gradually attained high financial influence compared to that of states. On the other hand, states have started engaging more intensely with TNCs to facilitate projects that would traditionally fall within their public policy, e.g. infrastructure, urban development etc. Many cases have shown that under a quest to maximise profits, abusive and uncontrollable corporate conduct have

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resulted in human rights violations and environmental degradation, such as in the [Lago Agrio](#) case, and in the [Okpabi v. Shell](#) case. A central problem of contemporary societies concerns the mitigation of environmental challenges, which emphasise the need for effective and inclusive decision-making processes. Traditional top-down approaches often fail to include diverse perspectives and foster meaningful dialogue. In that sense, deliberative democracy serves as a powerful framework that holds the potential to revolutionise how we address environmental issues. Therefore, it is worth exploring the benefits of applying deliberative democracy to facilitate public dialogue and prevent environmental harms.

The Green Nickel project

A recent example about the necessity of including the opinions of other stakeholders, such as local communities, academia etc., concerns a nickel mining project. In particular, Talon, a mining company often [accused of greenwashing](#) has submitted a proposal to the US public authorities about the construction of a nickel mine, requesting diggings as much as 725,000 metric tons of raw ore per year, in order to take advantage of the lucrative resources of nickel in Tamarack, a small city in Minnesota. Talon wants to accelerate the [Green Nickel project](#). The company's proposal includes the construction of an electrical substation, a wastewater treatment plant and a rail spur cutting through the wetlands of Mississippi and Tamarack. Many of the citizens of Tamarack are highly concerned about the environmental externalities that will emerge from this project, which will directly affect their access to a healthy and clean environment. Other opposers belong to a local tribe with a long history in cultivating the areas around the wetland. If the 'Green Nickel' project is approved, the members of the tribe will be directly affected for two main reasons. First, the wetlands are vital for their living, since they are traditionally active in agriculture and fishing. Second, their cultural status as well as the right to utilise Tamarack are legally recognised in [treaties](#) from the 1800s.

The essence of deliberative democracy

Deliberative democracy is not just a theoretical academic concept. It is a practical approach that emphasises inclusivity and transparency in public discussion as [Habermas](#) and [Dryzek](#) illustratively describe. Unlike conventional decision-making processes, deliberative democracy aims at engaging citizens in a public discourse, enabling them to openly express their thoughts and doubts in a discussion. Through open dialogue, the parties included represent diverse opinions and the interests of various stakeholders, e.g. companies, local communities, NGOs are heard. On this platform of polyphony, the discourse results in an authentic decision; deliberative democracy aims at reflecting a

broad consensus rather than the interests of a select few, as [Hendriks](#) and [Stasavage](#) elaborate among others.

The benefits of a deliberative democracy model that nurtures and is nurtured by sustainable development

a. Inclusivity

Deliberative democracy ensures that decisions related to environmental policies are not made in isolation, between public authorities and private actors. Especially when corporations are involved in infrastructure projects, the presence of experts and affected communities is vital for a fair decision-making process. In so doing, the final decision represents not only what the majority wants, but most importantly what the majority perceives as right, given the circumstances.

b. Spreading knowledge

Environmental issues are often complex and demand a holistic, multi-layered approach; their effects extend from the enjoyment of public goods per se to the quality of life and the development of surrounding areas. Especially when development projects demand the cooperation between the public and private sector, or are even directly appointed by the private sector, the parties involved should make their decisions transparent to prevent future environmental and human rights abuses. Deliberative democracy promotes a well-informed citizenry by providing access to expert opinions, scientific data, and diverse viewpoints. Informed citizens are better equipped to understand the consequences of various choices, fostering a more knowledgeable and engaged public.

c. Prevention and mitigation of environmental harms

One of the primary advantages of deliberative democracy in the context of the environment is its potential to prevent harms before they occur. By engaging in open dialogue, communities can collectively identify potential environmental risks, assess their severity, and collaboratively develop strategies to mitigate them.

d. Trustworthiness of decisions

Traditional top-down decision-making processes often breed mistrust among citizens who feel excluded from important discussions. Deliberative democracy promotes transparency, openness, and accountability, thereby building trust between communities and decision-makers. Rendering one's decisions trustworthy in the public sphere, is fundamental to the successful implementation of sustainable environmental policies.

e. Long-term sustainability

Environmental challenges require solutions that are able to stand the test of time. By applying the model of deliberative democracy, Public-Private Partnerships (PPPs) are able to adopt policies that are not only contingently effective, but rather sustainable in the long term. The inclusion of communities and experts in

the decision-making process enables the achievement and commitment to long-term environmental goals that will gradually become an internal part of their local culture.

Facilitating the role of human rights defenders

The linear relationship between deliberative democracy and human rights defenders is confirmed by the latter's role in uncovering and exposing business-related human rights scandals, such as labour abuses, environmental degradation, and unethical corporate practices. Deliberative democracy can provide significant support to these efforts by creating avenues for defenders to raise awareness, mobilise public opinion, and push for systemic change. By leveraging on transparency, accountability and democratic principles, defenders can shape policies and ultimately contribute to creating business environments that are not strictly market-oriented.

Particularly, within a deliberative democracy framework, human rights defenders can utilise platforms such as public forums, citizen assemblies and other types of stakeholder consultations to bring attention to specific business and human rights issues. Defenders will be able to present evidence and share testimonies from affected communities and engage with diverse stakeholders including businesses, policymakers, and civil society organisations. Moreover, the transparency and open dialogue upon which deliberative democracy is grounded, facilitate human rights defenders in identifying and exposing instances of misconduct within business operations, probably without having to run the [serious risks](#) that are unfortunately related with their missions; fear has no place in a democratic forum. Furthermore, deliberative democracy can empower human rights defenders to influence legislative and regulatory frameworks, since the engagement in inclusive and deliberative policy dialogues, opens the way in suggesting stronger enforcement and grievance mechanisms.

Looking ahead

As we confront the urgency of environmental issues, the adoption of deliberative democracy emerges as a meaningful means for achieving the [2030 Agenda of Sustainable Development](#). By providing a platform for diverse voices, informed decision-making, and proactive prevention of environmental harms, this approach offers a path toward a more sustainable and harmonious future. It is time to embrace the power of dialogue and collaboration in our collective efforts to protect and preserve the environment.